

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

MONSTER ENERGY COMPANY, )  
Plaintiff, ) Case No. 17-cv-00414  
v. )  
ZHENG PENG, et al., )  
Defendants. )  
)

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**PLAINTIFF MONSTER ENERGY COMPANY'S  
RULE 56.1 STATEMENT OF MATERIAL FACTS IN SUPPORT OF ITS  
MOTION FOR SUMMARY JUDGMENT AND A STATUTORY DAMAGES  
AWARD AS TO THE DEFENDANTS IDENTIFIED BY AND OPERATING  
AT LEAST THE INTERNET STORES KUNGFUGRAPHICS, BESTAUTO  
COMPANY STORE, MAPLE-TODAY, LIJINGYAN\_0, KIND-COMPANY,  
WILLINGSTORE16, CHANGLIANG1990, MKSTORE-CHINA,  
HUIZHENG1029, QIUSHUANGWUQING, HWYDO, BENSUNBAO2014\_5,  
WYNNBIBI, HAIYANG20910, 3349776, EASSALE, AND LUXURY86**

Pursuant to Local Rule 56.1(a)(3), Plaintiff Monster Energy Company ("Plaintiff" or "MEC") submits this Statement of Material Facts in support of its Motion for Summary Judgment and a Statutory Damages Award as to the Defendants identified by and operating at least the Internet stores kungfugraphics, BestAuto Company Store, maple-today, lijingyan\_0, kind-company, willingstore16, changliang1990, MKStore-China, huizheng1029, qiushuangwuqing, hwydo, bensunbao2014\_5, wynnbbibi, haiyang20910, 3349776, eassale, and luxury86 (collectively, "Defendants").

1. Plaintiff MEC holds numerous U.S. federal trademark registrations for its trademarks, including the below marks (collectively referred to herein as the "MONSTER ENERGY Trademarks"). [13] at ¶ 5.

NO.	REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
1	4,051,650		November 8, 2011	For: Clothing, namely, t-shirts, hooded shirts and hooded sweatshirts, sweat shirts, jackets, pants, bandanas, sweat bands and gloves; headgear, namely hats and beanies in class 025.
2	3,963,669		May 17, 2011	For: All-purpose sport bags; all-purpose carrying bags; backpacks; duffel bags in class 018.
3	3,963,668		May 17, 2011	For: Stickers; sticker kits comprising stickers and decals; posters in class 016.
4	3,923,683		February 22, 2011	For: All-purpose sport bags; all-purpose carrying bags; backpacks; duffle bags in class 018.
5	3,908,600		January 18, 2011	For: Stickers; sticker kits comprising stickers and decals; decals in class 016.

6	4,011,301		August 16, 2011	For: Sports helmets; video recordings featuring sports, extreme sports, and motor sports in class 009.
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The above U.S. registrations for the MONSTER ENERGY Trademarks are valid, subsisting, and in full force and effect. *Id.* at ¶ 6. Pursuant to 15 U.S.C. § 1065, U.S. Trademark Registration Nos. 3,963,669 and 3,963,668 are incontestable. Declaration of Bruce Kingsland (“Kingsland Declaration”) at ¶ 4.

2. MEC has registered its copyrighted  design (the “Monster Energy Copyrighted Design”) with the United States Copyright Office. [13] at ¶ 12. The registrations include, but are not limited to, “Stylized claw with jagged edges (original version)” (U.S. Copyright Registration No. VA 1-789-900), issued by the Register of Copyrights on October 11, 2011, and the corresponding supplemental registration changing ownership name from Hansen Beverages Company to Monster Energy Company: VA 1-433-242. *Id.*

3. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as kungfographics at the URL ebay.com/usr/kungfographics. Kingsland Declaration at ¶¶ 7-8. Specifically, Defendants advertised and offered for sale unauthorized stickers bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$9.90 USD. *Id.* at ¶ 8. Defendants identified the products as “Monster Energy Team Racing Sticker Sheet Deco Grafische Dirt Bike Motor Graphics.” *Id.* MEC examined the images of the stickers shown on the Online Marketplace Account identified as kungfographics at the URL

ebay.com/usr/kungfographics and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 7, 41.

4. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as BestAuto Company Store at the URL aliexpress.com/store/2660171. Kingsland Declaration at ¶¶ 9-10. Specifically, Defendants advertised and offered for sale unauthorized gloves bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$49.90 USD. *Id.* at ¶ 10. Defendants identified the products as “1Pair Motorcycle Leather Gloves Carbon Fibre Gloves Scrambling Motorcycle Cycle Racing Gloves.” *Id.* MEC examined the images of the gloves shown on the Online Marketplace Account identified as BestAuto Company Store at the URL aliexpress.com/store/2660171 and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 9, 41.

5. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as maple-today at the URL ebay.com/usr/maple-today. Kingsland Declaration at ¶¶ 11-12. Specifically, Defendants advertised and offered for sale unauthorized gloves bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$7.49 USD. *Id.* at ¶ 12. Defendants identified the products as “Motorcycle Motocross Riding Racing Bike Cycling Full Finger Gloves M/L/XL/XXL.” *Id.* MEC examined the images of the gloves shown on the Online Marketplace Account identified as maple-today at the URL ebay.com/usr/maple-today and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 11, 41.

6. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as lijingyan\_0 at the URL ebay.com/usr/lijingyan\_0. Kingsland Declaration at ¶¶ 13-14. Specifically, Defendants advertised and offered for sale unauthorized stickers bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$8.98 USD. *Id.* at ¶ 14. Defendants identified the products as “New Monster Energy Drink Car reflective stickers for one set cool racing decals.” *Id.* MEC examined the images of the stickers shown on the Online Marketplace Account identified as lijingyan\_0 at the URL ebay.com/usr/lijingyan\_0 and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 13, 41.

7. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as kind-company at the URL ebay.com/usr/kind-company. Kingsland Declaration at ¶¶ 15-16. Specifically, Defendants advertised and offered for sale unauthorized stickers bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$9.99 USD. *Id.* at ¶ 16. Defendants identified the products as “1set/2pcs white Car energy PVC badge sticker For monster rear-view review mirror.” *Id.* MEC examined the images of the stickers shown on the Online Marketplace Account identified as kind-company at the URL ebay.com/usr/kind-company and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 15, 41.

8. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as willingstore16 at the URL ebay.com/usr/willingstore16. Kingsland

Declaration at ¶¶ 17-18. Specifically, Defendants advertised and offered for sale unauthorized gloves bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$19.47 USD. *Id.* at ¶ 18. Defendants identified the products as “Hot Riding Motorcycle Gloves Breathable Gloves Full Finger MCS-16.” *Id.* MEC examined the images of the gloves shown on the Online Marketplace Account identified as willingstore16 at the URL ebay.com/usr/willingstore16 and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 17, 41.

9. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as changliang1990 at the URL ebay.com/usr/changliang1990. Kingsland Declaration at ¶¶ 19-20. Specifically, Defendants advertised and offered for sale unauthorized backpacks bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$9.98 USD. *Id.* at ¶ 20. Defendants identified the products as “Boys Girls Casual luminous Galaxy Rucksack Shoulder travel Backpack School Bag.” *Id.* MEC examined the images of the backpacks shown on the Online Marketplace Account identified as changliang1990 at the URL ebay.com/usr/changliang1990 and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 19, 41.

10. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as MKStore-China at the URL aliexpress.com/store/629971. Kingsland Declaration at ¶¶ 21-22. Specifically, Defendants advertised and offered for sale unauthorized stickers bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$4.50 USD. *Id.* at ¶ 22. Defendants identified the products as “Motorbike Oil Tank

Pad Sticker Gas Protector For YZF R1 R6 CRF50 CRF150 CRF600 GSXR600 GSXR700 KLX SSR Lifan Free shipping.” *Id.* MEC examined the images of the stickers shown on the Online Marketplace Account identified as MKStore-China at the URL aliexpress.com/store/629971 and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 21, 41.

11. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as huizheng1029 at the URL ebay.com/usr/huizheng1029. Kingsland Declaration at ¶¶ 23-24. Specifically, Defendants advertised and offered for sale unauthorized stickers bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$0.99 USD. *Id.* at ¶ 24. Defendants identified the products as “10pcs Skull Hand Sticker Bomb Decal Vinyl Roll Car Skate Skateboard Laptop.” *Id.* MEC examined the images of the stickers shown on the Online Marketplace Account identified as huizheng1029 at the URL ebay.com/usr/huizheng1029 and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 23, 41.

12. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as qiushuangwuqing at the URL ebay.com/usr/qiushuangwuqing. Kingsland Declaration at ¶¶ 25-26. Specifically, Defendants advertised and offered for sale unauthorized stickers bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$6.99 USD. *Id.* at ¶ 26. Defendants identified the products as “Monster Movie Icon XBOX ONE S Console Sticker+2 Controllers Decal Vinyl Skin.” *Id.* MEC examined the images of the stickers shown on the Online Marketplace Account identified as qiushuangwuqing at the

URL ebay.com/usr/qiushuangwuqing and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 25, 41.

13. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as hwydo at the URL ebay.com/usr/hwydo. Kingsland Declaration at ¶¶ 27-28. Specifically, Defendants advertised and offered for sale unauthorized backpacks using counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$79.99 CAN, approximately \$59.69 USD. *Id.* at ¶ 28. Defendants identified the products as “Motorcycle Helmet bag Waterproof High capacity Backpack tank bags shoulder bag.” *Id.* MEC examined the images of the backpacks shown on the Online Marketplace Account identified as hwydo at the URL ebay.com/usr/hwydo and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 27, 41.

14. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as benshunbao2014\_5 at the URL ebay.com/usr/benshunbao2014\_5. Kingsland Declaration at ¶¶ 29-30. Specifically, Defendants advertised and offered for sale unauthorized backpacks bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$20.22 USD. *Id.* at ¶ 30. Defendants identified the products as “Black Noctilucent Men Women School Bag Girls Travel Backpack Shoulder Rucksack.” *Id.* MEC examined the images of the backpacks shown on the Online Marketplace Account identified as benshunbao2014\_5 at the URL ebay.com/usr/benshunbao2014\_5 and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 29, 41.

15. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as wynnbbibi at the URL ebay.com/usr/wynnbbibi. Kingsland Declaration at ¶¶ 31-32. Specifically, Defendants advertised and offered for sale unauthorized stickers bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$14.00 USD. *Id.* at ¶ 32. Defendants identified the products as “For Monster Energy Logo Door Side Badge Metal Blade Decal Fender Side Sticker.” *Id.* MEC examined the images of the stickers shown on the Online Marketplace Account identified as wynnbbibi at the URL ebay.com/usr/wynnbbibi and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 31, 41.

16. Defendants were advertising, offering for sale and/or selling products using counterfeit versions of the MONSTER ENERGY Trademarks through the Online Marketplace Account identified as haiyang20910 at the URL ebay.com/usr/haiyang20910. Kingsland Declaration at ¶¶ 33-34. Specifically, Defendants advertised and offered for sale unauthorized sports helmets bearing counterfeit versions of the MONSTER ENERGY Trademarks to United States residents for \$34.77 USD. *Id.* at ¶ 34. Defendants identified the products as “S-XL\*Off-Road Racing Motocross Helmets 2 Color.” *Id.* MEC examined the images of the sports helmets shown on the Online Marketplace Account identified as haiyang20910 at the URL ebay.com/usr/haiyang20910 and determined that the product was not authorized by MEC, and therefore counterfeit. *Id.* at ¶¶ 33, 41.

17. Defendants were advertising, offering for sale and/or selling products bearing unauthorized copies of the Monster Energy Copyrighted Design through the Online Marketplace Account identified as 3349776 at the URL ebay.com/usr/3349776. Kingsland Declaration at ¶¶

35-36. Specifically, Defendants advertised and offered for sale unauthorized automotive accessories bearing unauthorized copies of the Monster Energy Copyrighted Design to United States residents for \$8.98 USD. *Id.* at ¶ 36. Defendants identified the products as “Black Energy Carbon Fiber Embroidery Car Seat Belt Cushion Shoulder Pad Cover.” *Id.* MEC examined the images of the automotive accessories shown on the Online Marketplace Account identified as 3349776 at the URL ebay.com/usr/3349776 and determined that the product was not authorized by MEC. *Id.* at ¶¶ 35, 41.

18. Defendants were advertising, offering for sale and/or selling products bearing unauthorized copies of the Monster Energy Copyrighted Design through the Online Marketplace Account identified as eassale at the URL ebay.com/usr/eassale. Kingsland Declaration at ¶¶ 37-38. Specifically, Defendants advertised and offered for sale unauthorized automotive accessories bearing unauthorized copies of the Monster Energy Copyrighted Design to United States residents for \$9.74 USD. *Id.* at ¶ 38. Defendants identified the products as “2pcs Black Auto Seat Belt Cover Pads Shoulder Cushion Monster.” *Id.* MEC examined the images of the automotive accessories shown on the Online Marketplace Account identified as eassale at the URL ebay.com/usr/eassale and determined that the product was not authorized by MEC. *Id.* at ¶¶ 37, 41.

19. Defendants were advertising, offering for sale and/or selling products bearing unauthorized copies of the Monster Energy Copyrighted Design through the Online Marketplace Account identified as luxury86 at the URL ebay.com/usr/luxury86. Kingsland Declaration at ¶¶ 39-40. Specifically, Defendants advertised and offered for sale unauthorized automotive accessories bearing unauthorized copies of the Monster Energy Copyrighted Design to United States residents for \$24.98 USD. *Id.* at ¶ 40. Defendants identified the products as “2\*claw paw

energy Carbon Fiber & Embroidery Seats Gat Stop Gap Filler Holster.” *Id.* MEC examined the images of the automotive accessories shown on the Online Marketplace Account identified as luxury86 at the URL ebay.com/usr/luxury86 and determined that the product was not authorized by MEC. *Id.* at ¶¶ 39, 41.

20. In addition, MEC’s investigator purchased products offered for sale on each of the Defendant Internet Stores, with the exception of the Defendant Internet Store MKStore-China. Kingsland Declaration at ¶ 6. The products purchased from the Defendant Internet Stores were delivered to the address used by MEC’s investigator. Declaration of Theodore Burns at ¶¶ 2-72. MEC examined photos of the products received from the Defendant Internet Stores and confirmed that the products were not authorized by MEC and counterfeit. Kingsland Declaration at ¶ 41. MEC further reviewed images of the products received from the Defendant Internet Stores and confirmed the products received bore one or both of the MONSTER ENERGY Trademarks and/or the Monster Energy Copyrighted Design, and were not authorized by MEC and counterfeit. *Id.*

21. MEC has not licensed or authorized the Defendants to use the MONSTER ENERGY Trademarks or the Monster Energy Copyrighted Design on or in connection with the Defendant Internet Stores. Kingsland Declaration at ¶ 42. Defendants are not authorized retailers of genuine MONSTER ENERGY brand products, and the products advertised, offered for sale and sold on the Defendant Internet Stores are not genuine MONSTER ENERGY brand products. *Id.*

22. Defendants’ counterfeiting and infringement operation consists of using at least the Defendant Internet Stores to offer for sale and sell products over the Internet to the United States, including to Illinois residents. Amended Complaint [9] at ¶ 2; Kingsland Declaration at ¶ 6. The Defendant Internet Stores offer shipping to the United States, including Illinois, and have advertised, offered for sale and sold products using counterfeit versions of the MONSTER

ENERGY Trademarks and unauthorized copies of the Monster Energy Copyrighted Design to residents of Illinois. *Id.*

Dated this 21st day of March 2017.

Respectfully submitted,

/s/ Justin R. Gaudio

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of March 2017, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system. The CM/ECF system will send a “Notice of E-Filing” to the attorneys of record in this case.

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